
For Information

REPORT TITLE: *Bill 197, COVID-19 Economic Recovery Act, 2020 - Changes to the Development Charges Act and Planning Act that Affect Previous Changes Made through the Bill 108, More Homes, More Choice Act, 2019*

FROM: Andrew Farr, Interim Commissioner of Public Works
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OBJECTIVE

To inform Regional Council of significant statutory changes made by legislation enacted in July 2020.

REPORT HIGHLIGHTS

- *Bill 197, COVID-19 Economic Recovery Act, 2020 (Bill 197)* received Royal Assent by the Province on July 21, 2020.
 - *Bill 197* amends 20 statutes including the *Development Charges Act, 1997 (DC Act)* and the *Planning Act*; and builds on and modifies changes made through *Bill 108, More Homes, More Choice Act, 2019 (Bill 108)*.
 - The Region of Peel (Region) advocated for change at every stage of the Province's housing legislation and staff updated Regional Council with each submission.
 - Positive changes have ensued, such as removal of industrial and commercial developments from the development charge (DC) deferral, reducing the Regional increase in debt financing requirements to approximately \$200 million (between 2020 and 2031), down from a range of \$420-466 million over the same period.
 - In line with the Region's prior advocacy, *Bill 197* restores development charge eligibilities for services such as Long-Term Care, Public Health, Housing Services and Childcare.
 - *Bill 197* clarifies that community benefits charges can only be imposed by local and single-tier municipalities to pay for the full range of DC eligible services as well as for parkland and other public recreation purposes provided there is no double counting of the capital costs within prescribed parameters.
 - *Bill 197* also confirms the elimination of the 10 per cent DC discount for soft services.
 - Overall, changes in the legislation are positive and will improve the Region's ability to recover growth related infrastructure costs through development charges.
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DISCUSSION

1. Background

On July 8, 2020, the Provincial government introduced omnibus *Bill 197: The COVID-19 Economic Recovery Act, 2020*. The Bill received Royal Assent on July 21, 2020 and

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amended 20 statutes. The Bill's stated objective is to stimulate Ontario's economy and recovery after the impacts of the COVID-19 pandemic.

This report provides an overview of aspects of *Bill 197* that make changes to the *Development Charges Act* and the *Planning Act*, especially as these relate to the changes previously proposed under *Bill 108: More Homes, More Choice Act, 2019* as further refined by *Bill 138: Planning to Build Ontario Together Act, 2019*. *Bill 197's* changes to the DC Act described below, have yet to be proclaimed.

The Region advocated for change at every stage in the evolution of legislative changes associated with Housing Supply Action Plan, submitting written comments to the Province (five in total) and reports to Council. This began with the *Increasing Housing Supply in Ontario* consultation paper from late 2018 into early 2019 and proceeded through *Bill 108*, its proposed regulations, and *Bill 138*. Staff also leveraged advocacy opportunities through the Association of Municipalities of Ontario (AMO), the Municipal Finance Officers' Association (MFOA) and the Ontario Regional and Single Tier Treasurers (ORSTT), to coordinate messaging to the Province.

Successful advocacy by the Region and its municipal partners, prior to *Bill 197*, encouraged positive changes, including:

- removal of industrial and commercial developments from the development charge (DC) deferral, which in turn is expected to reduce the increase in debt financing requirements attached to the deferral to \$200 million (between 2020 and 2031), down from a range of \$420-466 million (also between 2020 and 2031);
- the Minister of Municipal Affairs and Housing refraining from prescribing a maximum interest rate to the DC deferral and rate freeze, allowing municipalities flexibility in their recovery of these costs; and
- restoration of Long-Term Care and Public Health growth related capital costs to the DC regime.

Many aspects of *Bill 197* are aimed at providing municipalities and the development industry with the tools required to speed up infrastructure projects and proceed with construction activities. Some of the changes introduced through *Bill 197*, did not appear in *Bill 108* or its proposed regulations, but may still impact future growth in Peel. This report also notes some of these additional changes.

Bill 197 shows the Province continuing to listen to municipalities by adopting many of their recommendations, previously made in connection with *Bill 108*. With the introduction of *Bill 197*, a number of the Region's prior concerns over the Province's new housing legislation have been addressed.

2. Changes to the *Development Charges Act*

Bill 197 scales back many of the changes introduced by *Bill 108*, particularly for upper-tier municipalities, who can now recover regional soft costs associated with growth through DCs.

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The following changes were made through *Bill 197*:

- **Expansion of DC-eligible Service List**
As previously advocated by the Region, Housing Services and Childcare are restored as eligible services under the *DC Act*. A second round of *Bill 108* regulations had proposed to restore services such as Long-Term Care, Public Health, Parks and Recreation, and Libraries from the Community Benefit Charges framework to the DC regime. *Bill 197* confirms all these services as DC-eligible.
- **Removal of 10 Per Cent Statutory Reduction Confirmed**
DC-eligible services will see the elimination of the reduction. This had also been proposed previously by the Province, in its second round of *Bill 108* regulations.
- **Studies Eligible**
Bill 197 confirms that studies associated with the eligible services can be recovered under the *DC Act*.

The amended sections pertaining to the DC Act have not been proclaimed into force yet; Regional staff will continue to engage with provincial partners to advocate that they be proclaimed as soon as possible.

3. Changes to the *Planning Act*

The *Planning Act* changes introduced through *Bill 197* reverse some of the amendments introduced through *Bill 108* that were associated with the Community Benefits Charge (CBC) and introduce new powers to the Minister through Ministerial Zoning Orders.

The following changes were made through *Bill 197*:

- **Regional soft services are no longer eligible for collection under a CBC By-law**
Affordable housing and childcare services that were previously included in the proposed CBC regulatory framework have been removed from the CBC regime but remain as eligible services for collection under the development charges regime. This had previously been recommended by Regional staff.
- **CBC are for use by lower and single-tier municipalities**
Under the previous changes, upper-tier municipalities were required to have a separate CBC strategy for services such as affordable housing and childcare services. The restoration of these services to DCs is positive for the Region and addresses past Regional concerns over the administrative burden of implementing a new CBC strategy.
- **The Province has also introduced enhanced order-making powers of the Minister, relating to inclusionary zoning and affordable housing on specified land, through Minister's Zoning Orders (MZO).**

The Region understands that addressing affordable housing requires a range of tools and involvement from all levels of government. With the expanded powers of the Minister, Regional staff seek to better understand the processes, criteria and engagements through which such orders may be made, and would strongly urge the

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Minister to develop a transparent process that includes municipal collaboration and support for the planning direction to be furthered by MZO's prior to issuing such orders with their resultant impact on local and regional planning processes.

4. Financial Considerations

Bill 197 restores some much-needed sources of growth revenue to municipalities:

- Restoration of Housing and Childcare to the list of DC-eligible services will help maintain DC collection for these services.
- Removal of 10 per cent reductions will ensure that growth pays for growth, and restores \$7.5 million in revenues to the region, between 2015 and 2024 (as calculated in the 2015 DC Background Study).

Despite the positive changes made through Bill 197, there remain concerns related to amendments to the DC Act made through Bill 108, such as:

- The freezing of DC rates and the deferral of DC payments for certain types of development. On July 9, 2020, Council approved the Regional Development Charges Interest Rate Policy which will help mitigate financial risks associated with the DC freeze and the DC deferral.
- The mandatory DC exemption for secondary and/or additional units for new or existing buildings. While the exemption may contribute to increasing the Region's supply of affordable housing these exemptions may place an additional strain on Regional infrastructure, due to potential revenue loss.

5. Additional Bill 197 Considerations

Some of the changes introduced through *Bill 197*, did not appear in *Bill 108* or its proposed regulations, but may still impact future growth in Peel. Staff note the following changes:

- **The Province has established a permanent Land and Development Facilitator under the *Ministry of Municipal Affairs and Housing Act*. The Facilitator would advise and make recommendations to the Minister in respect of complex land use issues and other growth-related matters.**

Regional staff believe that a transparent process undertaken by the Facilitator in any recommendations provided to the Minister is essential to ensure that local and regional planning matters are considered in future Provincial decisions.

- **The Province has introduced changes to the *Environmental Assessment Act* to help streamline the Environmental Assessment (EA) process. This includes removal of 'bump up' requests to the Minister, focusing on projects with the highest environmental impact and reducing individual EA review timelines.**

Regional staff have supported finding efficiencies in the EA process to speed up approval timelines and construction processes. A full understanding of the implications in relation to environment will not be known until new regulations prescribing the new

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processes are released. It is important that the level and scope of assessments continue to assess, avoid and mitigate impacts to the environment.

- **The Province is accelerating key Provincial highway construction projects by eliminating hearing of necessity for expropriations of property under the *Public Transportation and Highway Improvement Act*.**

New provisions around the expropriation procedure would expedite future transportation infrastructure processes by removing roadblocks to construction. This may have future implications to future Provincial highway and public transit projects in Peel.

CONCLUSION

Over the last year, the Region along with the broader municipal sector advocated for changes to the Province's proposals to increase the supply of housing and to finance infrastructure development and construction projects. *Bill 197, COVID-19 Economic Recovery Act, 2020 (Bill 197)* addresses a number of the Region's concerns related to maintaining adequate levels of funding to pay for growth related infrastructure through development charge revenues. Additional changes implemented through *Bill 197* will also have an impact on future growth and development in Peel. The Region remains committed to continuing to work with the Province to assist in Ontario's economic recovery from the COVID-19 pandemic.

For further information regarding this report, please contact Stephanie Nagel, Treasurer, Ext.7105, stephanie.nagel@peelregion.ca or Adrian Smith, Interim Chief Planner and Director, Regional Planning and Growth Management, ext.4047, adrian.smith@peelregion.ca.

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Reviewed and/or approved in workflow by:

Department Commissioners, Division Directors and Legal Services.

Final approval is by the Chief Administrative Officer.



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